

OFFICE OF THE  
ATTORNEY GENERAL

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STATE OF ALABAMA

JAN 5 1988

88-00103

Honorable Buford R. Burgess  
Sheriff  
Morgan County  
P.O. Box 663  
Decatur, Alabama 35602

Prisons & Prisoners - Jails -  
Sentences - Driving Under  
Influence

Correctional Incentive Time  
Act does not apply to persons  
convicted of a misdemeanor  
who received a sentence other  
than hard labor or to persons  
convicted of violating  
municipal ordinances.

Dear Sheriff Burgess:

You have requested an opinion from this office which  
opinion request reads as follows:

"1. District court judges and city  
judges are sentencing people on D.U.I.  
cases to serve weekends instead of  
straight time. Example: John Doe is  
to serve from 6:00 P.M., Friday,  
November 13, 1987, to 6:00 P.M.,  
Sunday, November 15, 1987, and each  
weekend thereafter for twenty-nine  
weekends. John Doe was sentenced to  
90 days with 30 days suspended. DUI  
-Statute 32-5A-191

Based on above information: Subject  
is serving 48 hours on this sentence.  
The statute reads that he only has to

serve 48 consecutive hours, one time on second conviction, 60 days on third conviction.

Question: Is subject serving three days per weekend or will it be considered two days.

2. DUI §32-5A-191 vs §14-9-41

Under DUI on third conviction, there is a minimum sentence of 60 days which cannot be reduced or suspended.

§14-9-41 Deductions from Sentence.

No deduction is allowed for the first 30 days, but then inmate can be classified as a Class III inmate, is he supposed to earn 20 days for each 30 days served.

Question: Does Section 14-9-41 apply to Section 32-5A-191.

- Examples:
- A - Subject sentenced to 180 days for DUI.
  - B - Subject sentenced to to 6 months for DUI.
  - C - Subject sentenced to 12 months for DUI.
  - D - Subject sentenced to 365 days for DUI.

The deduction that use to apply to county convicts was repealed by Acts 1980, NO. 80-446, p. 690, effective May 19, 1980."

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In response to your first question, a prisoner serving from 6:00 P.M. on Friday until 6:00 P.M. Sunday would have served two days on his sentence.

In response to your second question, The Alabama Correctional Incentive Time Act, Code of Alabama 1975, Section 14-9-40, et seq. is applicable only to persons who have been convicted of a misdemeanor and received a sentence of hard labor. Informal opinion of the Attorney General, No. 84-00213, March 23, 1984. It does not apply to persons convicted of a misdemeanor who received a sentence other than hard labor or to persons convicted of violating municipal ordinances. Quarterly Reports of the Attorney General, Vol. 184 p. 17.

In computing incentive time deductions under the Correctional Incentive Time Act for county prisoners, you must use the standards set forth in Section 14-9-41(a) and the criteria established by the Commissioner of the Department of Corrections pursuant to 14-9-41(b). Informal opinion of the Attorney General, No. 84-00116, January 11, 1984.

I hope I have satisfactorily answered your inquiry with regard to this matter.

Sincerely,

DON SIEGELMAN  
ATTORNEY GENERAL  
BY:



JACK M. CURTIS  
ASSISTANT ATTORNEY GENERAL

DS/JMC/vj